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WRITER'S DIRECT DIAL NUMBER

April 27, 2000

DOCKET FILE COPY ORIGINAL

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

RECEIVED  
APR 27 2000  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: MM Docket No. 00-43  
RM-9833

Dear Ms. Salas:

On behalf of Washington County Communications, applicant for a new FM station to operate on Channel 236A at Ebro, Florida, there is transmitted herewith and filed an original and four (4) copies of its Comments in the above-referenced matter.

Should any questions arise with respect to this matter, kindly communicate directly with undersigned counsel.

Very truly yours,

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

By: Bruce A. Eisen

Bruce A. Eisen

Enclosure

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# Federal Communications Commission

WASHINGTON, D.C. 20554

RECEIVED  
APR 27 2000  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Amendment of Section 73.202(b),  
Table of Allotments  
FM Broadcast Stations  
(Ebro, Florida)

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)

MM Docket No. 00-43  
RM-9833

TO: Chief, Allocations Branch

## COMMENTS OF WASHINGTON COUNTY COMMUNICATIONS

Washington County Communications ("Washington County"), by its attorney, hereby files its comments with respect to the above-captioned Notice of Proposed Rulemaking ("NPRM") released by the Commission on March 10, 2000. In support thereof, the following is shown.

The NPRM was adopted in response to Washington County's petition for rulemaking which requested the assignment of Channel 236A to Ebro, Florida, as that community's first local broadcast service. The petition set forth a number of community institutions and characteristics and showed that Ebro was both incorporated and listed in the 1990 United States Census.

The Chief, Allocations Branch, cites the Commission's established definition of "community" as a geographically identifiable population grouping, and that, generally, if a community is incorporated or listed in the U.S. Census, that is sufficient to satisfy its status for assignment purposes. The Chief found that Ebro was an incorporated community with its own

zip code and a post office. He also acknowledged Washington County's statement that Ebro has its own form of local government comprised of a city council, an elected mayor and a city clerk, that there are several businesses within the city limits, as well as churches, a community center, library and a fire department. It is not altogether clear, therefore, why the Allocations Branch requests additional information in order to demonstrate that Ebro has the social, economic and governmental indicia to qualify it as a community for allotment purposes. It is puzzling that the case cited in the NPRM - Gretna, Marianna, Quincy and Tallahassee, Florida, 6 FCC Rcd 633 (1991), is offered as justification for the further information. In that case, the community at issue - Steinhatchee, Florida - was not incorporated or listed by the U.S. Census. Moreover, Steinhatchee had no internal governing body or mayor, and no municipally provided services of any kind. Hence, the Allocations Branch concluded that if a community is not incorporated or listed in the census reports, proponents of an allotment must show the place to be a geographically identifiable population grouping. Certain standards were also provided in that case to measure community status in the absence of incorporation or census listing.

Washington County, on the contrary, clearly showed that Ebro is endowed with those community characteristics that the Commission has routinely equated with community status in the past. Nevertheless, additional information is hereby provided in response to the NPRM.

#### **Ebro Businesses and Industry**

Jiffy Foods	6590 Dog Track Road, Ebro, FL 32437
Ebro Café	5331 Captain Fritz Road, Ebro, FL 32437
Ebro Motel	5312 Captain Fritz Road, Ebro, FL 32437
D&S Logging	5418 Casey Road, Ebro, FL 32437

Gilleys Logging	5238 Ira Road, Ebro, FL 32437
Ebro Greyhound Park, (Washington County Kennel Club, Inc.)	6558 Dog Track Road, Ebro, FL 32437

### **Churches**

Ebro Baptist Church	5360 Casey Road, Ebro, FL 32437
Ebro Assembly of God	6688 Dog Track Road, Ebro, FL 32437
Rock of Deliverance	5414 Obies Street, Ebro, FL 32437

### **Government Facilites**

U.S. Post Office	5416 Obies Street, Ebro, FL 32437
Ebro City Hall	6629 Dog Track Road, Ebro, FL 32437
Fire Department	same as above
Community Center	same as above

Annexed to these comments is a letter to the Commission written by Ms. Sally Young, Mayor of Ebro, in support of a new Ebro, Florida FM broadcast station. Mayor Young refers to Ebro's population (255 as reflected in the 1990 United States Census), but stresses the fact that the community is geographically isolated from any single, larger community. In this regard, Mayor Young notes that Ebro's residents rely upon those institutions, as listed above, for services and other necessities. Importantly, the Mayor explains that most of the people who reside within the city limits of Ebro conceive of themselves as residents of Ebro and no other place. The Mayor's statement is not unexpected in light of the fact that Ebro is 16 miles from Panama City, 18 miles from the communities of Vernon and Freeport, and no less than 34 miles

from Chipley, which is the county seat. In other words, Ebro is not a bedroom community, identified with, or dependent upon some other city.

Mayor Young also recites that the religious institutions and businesses which exist in Ebro are directed at the local residents, many of whom work at the Greyhound Park. She also points to the community center/library which operates from within the Ebro city hall, and which primarily address the interests of Ebro residents, as well as the Ebro Recreational Park which provides recreational activities throughout the year directed principally at the residents of the community. Finally, the Mayor references a Boy Scout troupe and various church organizations, all of which have at least some service orientation. Attached hereto is a letter from the Florida Department of Environmental Protection, dated January 12, 2000, which shows that the Department has approved the construction of an Ebro athletic complex, further documentation that Ebro is a vibrant and growing community. Finally, Washington County submits as a part of these comments photographs of Ebro landmarks to further demonstrate the physical attributes of the community and the institutions located therein.

The numbers within the identifiable population of a community have never been decisional in determining whether or not an FM assignment is appropriate. See, e.g., Yermo, California, 45 RR2d 58 (Broadcast Bureau 1979). What is important for allocation purposes is that a petitioner demonstrate the existence of a specific locality with defined boundaries where the residents share common interests, and if it is an incorporated community, the question is easily answered. See, e.g., Naples, Florida, 44 RR2d 1549 (1977). Washington County has surely demonstrated that Ebro qualifies as a community under these cases. The fact that Ebro is geographically isolated from any single, larger community, is surely evidence that it is not a

small municipality located on the fringe of a larger area, reliant upon some other community for its needs. This factor, alone, is perhaps the best proof that assignment of Channel 236A to Ebro fulfills the public interest.

The amount of revenues generated by the Ebro Greyhound Park is particularly significant. However, even in the absence of that enterprise, the Commission has never established a minimum amount of commercial activity to qualify an area as a community. See, Beach Mountain, North Carolina, 6 FCC Rcd 5835 (Mass Media Bureau, 1991). See, Semora, North Carolina, 5 FCC Rcd 934 (1990). Furthermore, although Ebro may rely upon the county for police protection, schools and other services, these factors do not lead to a conclusion that Ebro lacks status as a community, especially since it does have its own local government. See, Kenansville, Florida, 5 FCC Rcd 2663 (Mass Media Bureau, 1990).

As stated, Washington County fully intends to file an application for Channel 236A if that channel is allotted to Ebro and, if authorized, to build the station promptly.

In light of the foregoing, Channel 236 should be assigned to Ebro as that community's first local broadcast service.

Respectfully submitted,

WASHINGTON COUNTY BROADCASTING

By:

A handwritten signature in black ink, appearing to read "Bruce A. Eisen", written over a horizontal line.

Bruce A. Eisen  
Its Attorney

KAYE, SCHOLER, FIERMAN,  
HAYS & HANDLER, LLP  
901 15th Street, N.W.  
Suite 1100  
Washington, D.C. 20005  
(202) 682-3500

April 27, 2000

**ATTACHMENT 1**



# TOWN OF EBRO

Mayor

*Sally Young*

Council

*Alex T. Anderson*

*Mabel R. Strickland*

*Jerry Young*

*Ida F. Lovesee*

*Renetta Anderson*

City Clerk

*Tammy Bozeman*

Post Office Box 10

6629 Dogtrack Road

Ebro, Florida 32437

Phone 850-535-2842

Facsimile 850-535-2842

Council meets 2<sup>nd</sup> Tuesday  
of each month @ 5:30 P.M.

March 28, 2000

Federal Communications Commission  
Washington, D.C.

Gentlemen:

This letter is written in support of a new FM radio station in Ebro, Florida.

Although Ebro's population appears small, in fact, Ebro is a vibrant community geographically isolated from any single large community whose residents rely upon institutions and businesses of their own. Most of the people who reside within the city limits conceive themselves as residents of Ebro and no other place.

Ebro has its own form of government, its religious institutions primarily addressing the needs of Ebro residents, and businesses which are directed at local residents. Many persons in Ebro work at the Ebro Greyhound park, which employs approximately 175 people. There is a community center/library which operates from within the Ebro City Hall and serves the interests primarily of Ebro residents. The Ebro Recreational Park has many activities which are planned throughout the year, and again, is directed principally at the residents of the community.

Ebro has its own service organizations which include, Boy Scout Troop 778, and various church organizations.

Respectfully submitted,

*Sally Young*  
Sally Young, Mayor of Ebro

**ATTACHMENT 2**



Jeb Bush  
Governor

# Department of Environmental Protection

David B. Struhs  
Secretary

January 12, 2000

Ms. Tammy Bozeman  
Town Clerk  
Town of Ebro  
Post Office Box 10  
Ebro, Florida 32437

Re: Ebro Athletic Complex  
FRDAP Project No. F99163

Dear Ms. Bozeman:

We have approved the list of project elements dated December 24, 1999, and the corresponding site plan for this project. Therefore, you may commence project construction.

This authorization does not relieve you of the responsibility to comply with all applicable federal, state, county or municipal laws, ordinances or rules. You must obtain any permits, management agreements or leases which may be required.

Please begin submitting status reports every ninety days as required by the project agreement. The necessary form was provided in your agreement file. The first report is due April 5, 2000. Photographs should be submitted at least once during the development phase to further reflect actual work accomplished.

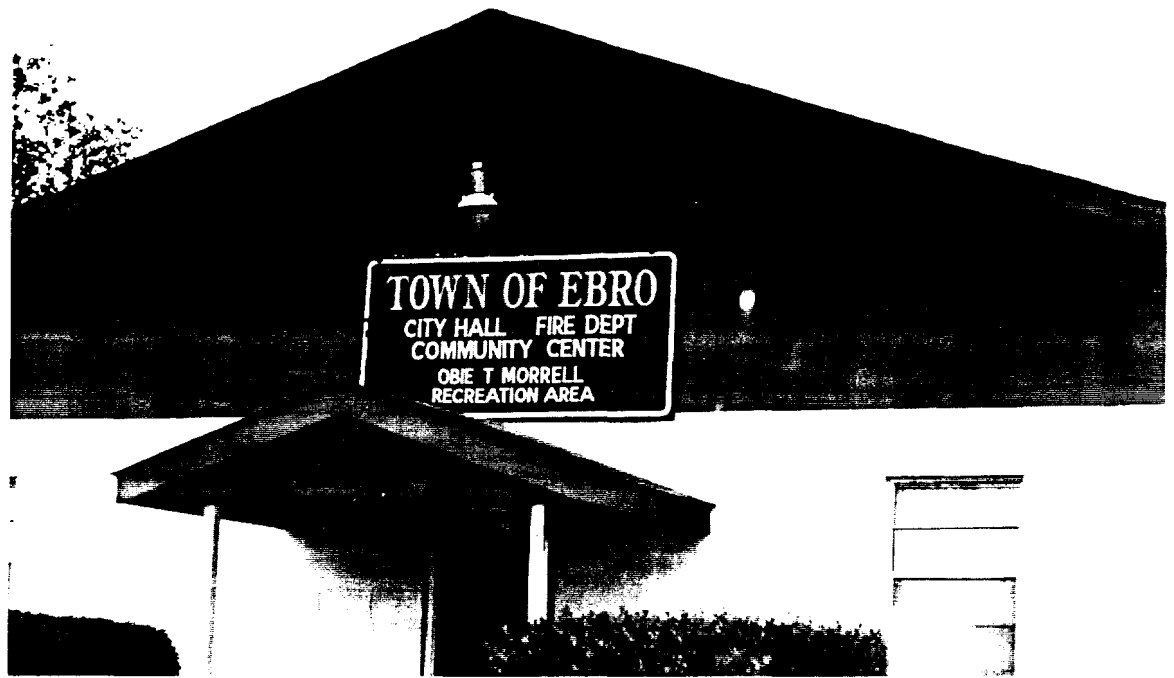
Also, please be aware that the project completion date for this project is September 30, 2000. This is the date by which all grant related development must be completed and all grant related expenses paid. Thank you for your attention to this matter.

Sincerely,

for  
Rita Ventry  
Community Assistance Consultant  
Bureau of Design and Recreation Services  
Division of Recreation and Parks  
Mail Station #585

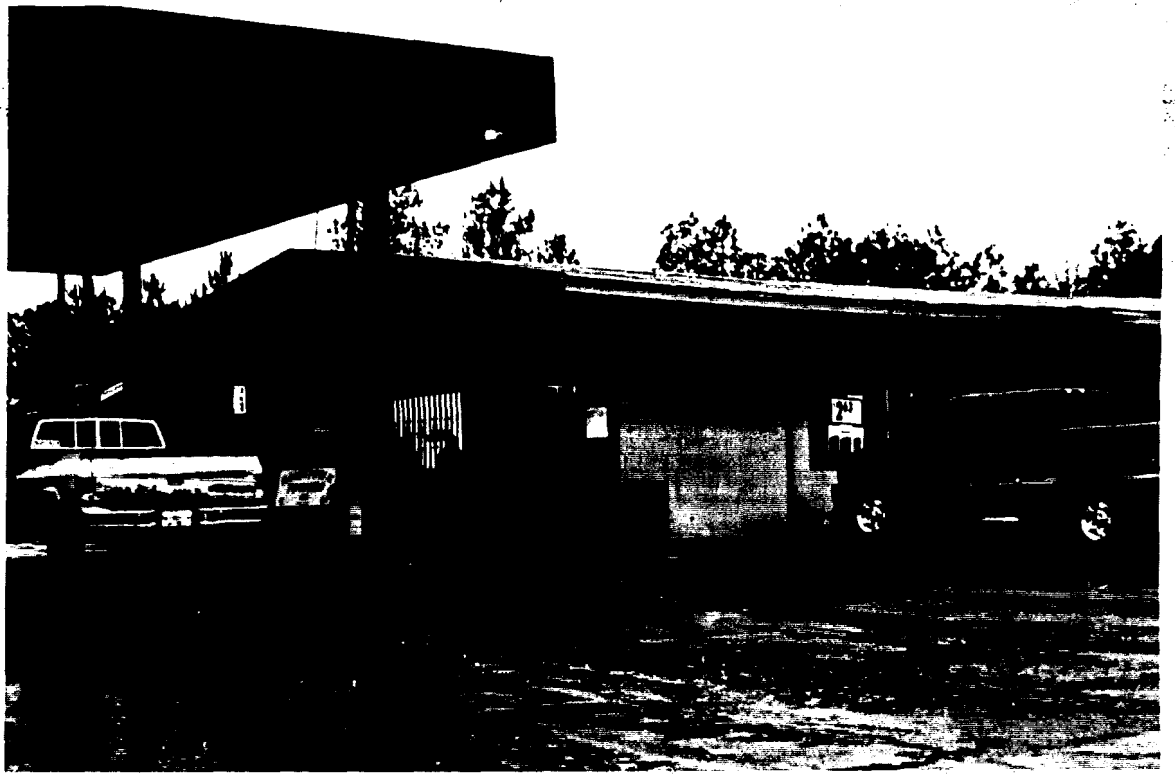
RV/kbc

**ATTACHMENT 3**



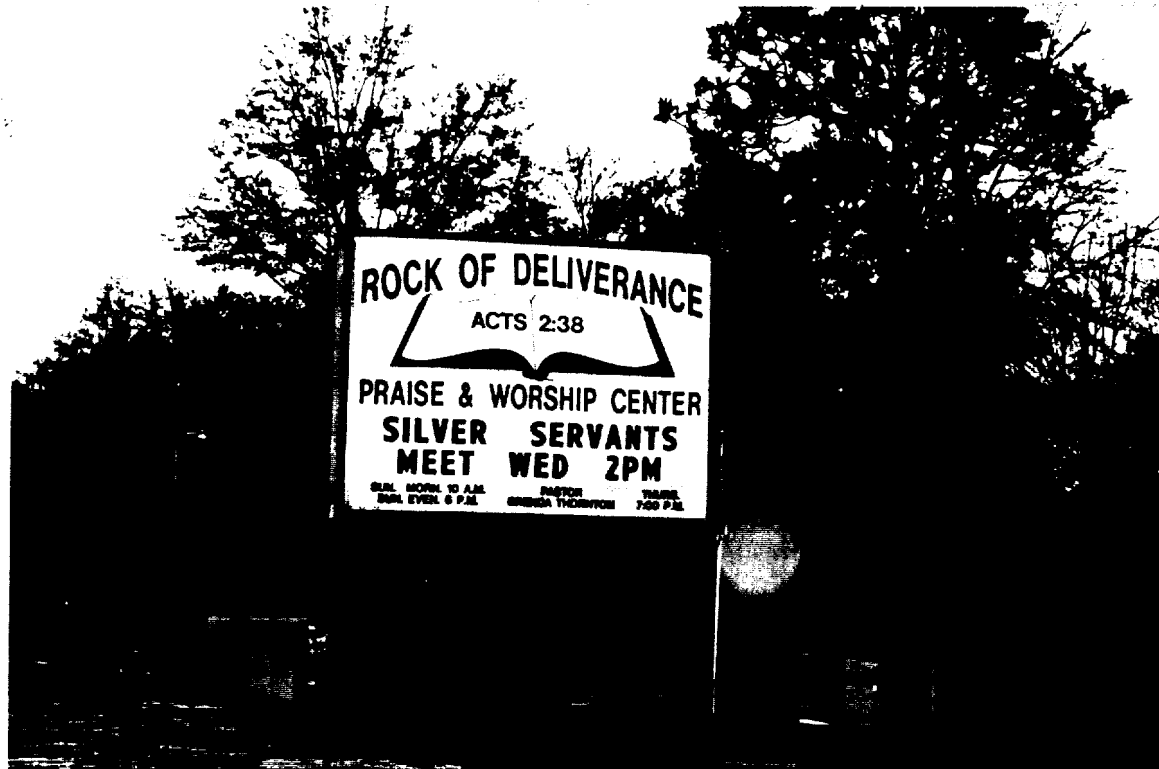













**CERTIFICATE OF SERVICE**

I, Toni R. Daluge, a secretary in the law firm of Kaye, Scholer, Fierman, Hays & Handler, LLP, do hereby certify that on this 27th day of April, 2000, a copy of the foregoing "Comments of Washington County Communications" was hand-delivered to the following:

Kathleen Scheuerle  
Mass Media Bureau  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room 3-A247  
Washington, D.C. 20554

  
Toni R. Daluge